

## REMARKS

Claims 1-3, 6-11, and 13-18 are pending. This includes independent claims 1 and 11. Applicant respectfully submits that all of the pending claims patentably distinguish over the combination of Yamada '157 and Behm '742 as set forth below.

The pending claims stand rejected under §103(a) over Yamada '157 in further view of Behm '742. However, there is no reasonable, logical reason to combine Yamada '157 and Behm '742 in the fashion claimed absent hindsight analysis and, in fact, combining Behm '742 with Yamada '157 destroys the intent of Yamada '157.

Claim 1 currently claims a game apparatus comprising an electronic game device including a computer, a display, a game card interface, and at least one game programmed into the computer. There is also a game card with game information stored thereon adapted for connection with the game card interface. Connection of the game card to the interface permits a player to initiate game play. The game information on the game card is contained in printed conductive elements. The outcome of the game is predetermined by the information on the game card and is displayed on the game display. The outcome of the game is not changed by subsequent play of the game with the electronic game device.

Yamada '157 discloses a card game executed by a computer device wherein information from a plurality of cards is used to generate a combination of cards for a game player. This combination is changed in response to instructions from the game player. (Abstract.) Essentially, players load cards into a computer and then engage in electronic "combat" based on the strengths and weaknesses of the characters

described by the cards. FIG. 7 displays the attributes of the characters the player considers for gameplay.

FIG. 7

300

IDENTIFICATION INFORMATION	NAME	ATTRIBUTE	STRENGTH	OFFENSIVE POWER	DEFENSIVE POWER
A00001	XXXXX	○	100	21000	40
B00010	XXXXX	△	20000	50000	60000
D00100	XXXXX	○	5	1000	10
C00020	XXXXX	×	4000	7000	500
D00025	XXXXX	□	600	30	800
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

This information is used by the player to make informed decisions in implementing strategy against another player in a duel format. Accordingly, the result of the contest between the players is not predetermined. Instead, the players make decisions regarding game play that ultimately decide the winner of the contest. Thus, the information contained on the cards input into the Yamada '157 invention does not solely determine the outcome of the game. **Player interaction decides the victor.** Otherwise, the Yamada '157 invention would quickly lose the interest of the players if the cards were simply input and compared to determine the winner.

The Office Action attempts to remedy the failings of Yamada '157 by incorporating Behm '742. Respectfully, this fails. The Office Action states that "Yamada does not teach said game card is contained in printed conductive elements or that the game is predetermined based on the card but Behm does." (10/16/08 Office Action, p. 4.) The Office Action continues that "It should be noted that Behm's invention

is related to lottery cards, and lottery cards are obviously well known in the art to have predetermined outcomes with no interaction with a player.” (10/16/08 Office Action, p.

5.) However, the incorporation of Behm ‘742 into Yamada ‘157 fails for various reasons.

There must be a reasonable, logical reason to combine known elements in the fashion claimed. *KSR International Co. v. Teleflex, Inc.*, 82 USPQ2d 1385, 1396 (2007). Here, one skilled in the art seeking to create a game where players dueled with imaginary characters having various strengths and weaknesses would not incorporate a static lottery card where the outcome of the game is predetermined and unaffected by the player’s skill or selection. Yamada ‘157 specifically seeks to encourage trading and gameplay through variation in the gaming experience. Incorporation of the disclosure of Behm ‘742 in the manner suggested is contrary to this objective.

Incorporating the disclosure of Behm ‘742 destroys the intended purpose of Yamada ‘157. Yamada ‘157 seeks to allow the game players’ actions to determine the outcome of the game. (Abstract.) Simply inserting a lottery ticket into the device with the result of the game being determined solely by the content of the card utterly destroys this intended purpose. Further, the Office Action admits Behm ‘742 discloses “predetermined outcomes with no interaction from a player.” (10/16/08 Office Action, p. 5.) Accordingly, absent hindsight appreciation of the present invention, one skilled in the art would not combine Yamada ‘157 and Behm ‘742 in the manner alleged in the § 103 rejection. Further, as explained in Applicant’s prior response, Yamada ‘157 is fundamentally unrelated to Applicant’s claims. Accordingly, the rejections based on the combination of these elements should be withdrawn and the claims allowed. Because

the references cited do not render Applicant's claims obvious pursuant to 35 U.S.C. § 103(a), the rejection of the claims should be withdrawn and the claims allowed.

With the present Amendment, applicant respectfully submits that all pending claims are allowable, and that the application is in condition for allowance. Favorable action thereon is respectfully requested. The Examiner is encouraged to contact the undersigned at his convenience should he have any questions regarding this matter or require any additional information.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully submitted,

DORITY & MANNING, P.A.

By:



Douglas L. Lineberry  
Registration No. 54,274

P.O. Box 1449  
Greenville, SC 29602-1449  
(864) 271-1592  
fax (864) 233-7342

Date: 01/16/09